P.R. No. 6556/05
Presented by: [illegible]
dated 22/12/05

(3)
(1)

Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR
CHHATTISGARH

W.P. NO. 6504 **/2005**

PETITIONER : V.K. Shrivastava, Aged about 58 years,
S/o. Jageshwar Prasad R/o. Purani Basti,
Raipur, Distt. Raipur (C.G.)

VERSUS

RESPONDENTS :
1] State of Chhattisgarh,
Through: Secretary, Education Deptt,
D.K.S. Bhawan, Raipur (C.G.)

2] District Education Officer,
Raipur Pension Bada, Raipur District
Raipur (C.G.)

3] Director of Public Instruction Pension
Bada, Raipur, District- Raipur (C.G.)

RECEIVED-COPY
22-12-05
CLERK to A. G. BILASPUR

WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA

XI-HC-22

(56)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P-NO. 6504/05

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

4-1-2006

Shri Manoj Paranjape, Counsel for the petitioner.

Shri Satish Gupta, Dy. Govt. Adv. for the State.

With consent heard finally. I.A. No. 10964/2005 is allowed.

2. The petitioner has filed this petition under Article 226/227 of the Constitution of India seeking a direction to the respondent for giving second time bound promotion to the petitioner.

3. Counsel for the petitioner submits that the petitioner was appointed as Assistant Teacher on 20-7-1968 and is serving since last more than 37 years. He submits that the petitioner has been given first time bound but has not been given the second time bound promotion. He further submits that the petitioner is entitled for the second time bound promotion. He also submits that as per Circular Annexure P-1 dated 23-8-1997, it was directed that Assistant Teachers should be promoted to the post of Head Master of Primary School on pay scale of Rs. 1400-2040 and if he has completed 12 years on this pay scale, then he be promoted to the pay scale of Rs. 1640-2900 if found fit by the departmental promotion committee. He further submits that as per order Annexure P-2 dated 19-9-1990, he was given first time bound promotion. He further submits that as per Annexure P-3 dated 17-4-1999, it was decided by the Government that the employees who have completed 12 years or more on the same post, can be promoted to the higher post subject to certain conditions. He further submits that thereafter as per Annexure P-4 dated 2-5-2002, the Government of

[पीछे देखिये

(57)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. No. 6504/2005 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	-2-	

Chhattisgarh also adopted the earlier orders regarding time bound promotion. Counsel for the petitioner submits that according to the above circulars, the petitioner is entitled for second time bound promotion. He placed reliance on a decision of this Court passed in W.P. No. 4787/2004 (G.P. Dubey and others – v- State of Chhattisgarh and others) dated 23-9-2005. He also relied on a decision of the Hon'ble Apex Court in the case of State of Tripura and others – v- K.K. Roy reported in 2004 AIR SCW 1. Para 6 and 7 of the decision are relevant and quoted below:-

> "6. *It is not a case where there existed an avenue for promotion. It is also not a case where the State intended to make amendments in the promotional policy. The appellant being a State within the meaning of Article of 12 of the Constitution should have created promotional avenues for the respondent having regard to its constitutional obligations adumbrated in Articles 14 and 16 of the Constitution of India. Despite its constitutional obligations, the State cannot take a stand that as the respondent herein accepted the terms and conditions of the offer of appointment knowing fully well that there was no avenue of promotion, he cannot resile therefrom. It is not a case where the principles of estoppel or waiver should be applied having regard to the constitutional functions of the State. It is not disputed that the other States in India, Union of India having regard to the recommendations made in this behalf by the Pay Commission introduced the scheme of Assured Career Promotion in terms whereof the incumbent of a post if not promoted within a period of 12 years is granted one higher scale of pay and another upon completion of 24 years if in the meanwhile he had not been promoted despite existence of promotional avenues. When questioned, the learned counsel appearing on behalf of the appellant, even could not point out that the State of Tripura has introduced such a scheme. We wonder as to why such a scheme was*

[पीछे देखिये

(58)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P No. 6504/2005
मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

not introduced by the Appellant like the other States in India, and what impeded it from doing so. Promotion being a condition of service and having regard to the requirements thereof as has been pointed out by this Court in the decisions referred to hereinbefore, it was expected that the Appellant should have followed the said principle.

7. We are, thus, of the opinion that the respondent herein is at least entitled to grant of two higher grades, one upon expiry of the period of 12 years from the date of his joining of the service and the other upon expiry of 24 years thereof."

4. Having heard and considered the facts and circumstans of the case and material on record, and since the petitioner has completed more than 24 years of regular service, and has got only one time bound promotion, the petition is allowed and the concerned District Education Officer is directed to consider the case of the petitioner in accordance with law for grant of second time bound promotion.

Certified copy as per rules.

Sd/-
Fakhruddin
Judge

patkale/—

6.1.06
18.1.06
1.5.06

[पीछे देखिये